



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,047	06/19/2003	Louis A. Lippincott	884.898US1	6017

21186 7590 06/09/2010  
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.  
P.O. BOX 2938  
MINNEAPOLIS, MN 55402

EXAMINER
----------

DANG, DUY M

ART UNIT	PAPER NUMBER
----------	--------------

2624

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

06/09/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto@slwip.com  
request@slwip.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/600,047	<b>Applicant(s)</b> LIPPINCOTT, LOUIS A.	
	<b>Examiner</b> Duy M. Dang	<b>Art Unit</b> 2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6,8 and 19-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6,8 and 19-24 is/are allowed.
- 6) ☒ Claim(s) 25-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/28/2009</u> . | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 2624

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114.

Applicant's submission filed on September 28, 2009 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 25-30 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for *a machine defined as computer or a device with a set of more than one processors* (see specification page 4 lines 4-6), does not reasonably provide enablement for *a machine defined as a network device, a personal digital assistant, manufacturing tool, or a device with a set of one processor* (see specification page 4 lines 4-6). The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

With the broadest reasonable interpretation, see MPEP 2111, the scope of claimed machine covers:

- (i) a network device which does not always include more than one processors;
- (ii) a personal digital assistant which does not always include more than one processors;

Art Unit: 2624

- (iii) manufacturing tool which does not always include a processor; or
- (iv) device with a set of one processor.

Since claim 25 as a representative claim, requires three processors and none of the machine defined as (i), (ii), (iii), or (iv) has more than two processor.

In the case of machine defined as a network device, the specification does not describe how to include three processors in a network device so claimed instructions (program or software) can be carried out. Likewise, the specification fails to describe how to include three processors in a personal digital assistant, manufacturing tool, or a device with so claimed instructions (program or software) can be carried out.

Therefore, the specification fails to teach how to make and use the claimed invention without undue experimentation,

For compact prosecution, the examiner suggests to replace “machine” by “computer” in order to overcome this rejection.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 25-30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As to claim 25, it is directed to a “machine-readable storage medium” which typically covers forms of non-transitory tangible media and transitory propagating signals per se in view of the ordinary and customary meaning of machine-readable storage media. See MPEP 2111.01. When the broadest reasonable interpretation of a claim covers a signal per se, the claim must be

Art Unit: 2624

rejected under 35 U.S.C. § 101 as covering non-statutory subject matter. See *In re Nuijten*, 500 F.3d 1346, 1356-57 (Fed. Cir. 2007) (transitory embodiments are not directed to statutory subject matter); Interim Examination Instructions for Evaluating Subject Matter Eligibility Under 35 U.S.C. § 101, Aug. 24, 2009; p. 2; and 1351 OG 212 Published on February 23, 2010 and on the internet at:

<http://www.uspto.gov/web/offices/com/sol/og/2010/week08/TOC.htm#re20>.

(Note: Guidance/Instructions published on February 23, 2010 supersedes any previous Guidance/Instructions).

The examine suggests amend the claim by replacing “machine-readable storage medium” by “non-transitory computer-readable medium” to limit the scope to only the statutory media in order to meet 35 U.S.C. 101 requirements. Any amendment to claim and/or specification should be commensurate with its corresponding disclosure.

#### ***Allowable Subject Matter***

6. Claims 1-6, 8, 19-24 are allowed.

7. The following is an examiner’s statement of reasons for allowance:

Regarding claim 1, Li does not disclose that one processor includes a type of hardware accelerator that is not included in the second processor." Li appears to disclose the same type hardware accelerator in every processor element PE (see item 5 of figure 1). Likewise, claims 2-6 and 19-24 are allowed for the same reasons.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

Art Unit: 2624

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duy M. Dang whose telephone number is 571-272-7389. The examiner can normally be reached on Monday to Friday from 6:00AM to 2:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew C. Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Dmd  
6/2010

/Duy M Dang/  
Primary Examiner, Art Unit 2624